

Tazewell Co.
Pekin / Muncie

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WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
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CHICAGO 60601

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793-3500

EPA Region 5 Records Ctr.



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March 9, 1978

Delbert D. Haschemeyer
Manager, Enforcement Programs
Illinois Environmental
Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Thomas R. Chiola
Technical Advisor
Illinois Environmental
Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Re: City of Pekin
PCB 75-156
Third Dis. App. Ct.
No. 76-93

Gentlemen:

Enclosed please find a copy of the Complaint I filed today in the above-mentioned matter. When a docket number is assigned, I will so inform Mr. Chiola.

Very truly yours,

JILL LESLIE DRELL
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601
312/793-2491

JLD:lab

Enclosure

STATE OF ILLINOIS)
) SS.
COUNTY OF TAZEWELL)

FILED

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IN THE CIRCUIT COURT FOR THE TENTH JUDICIAL DISTRICT
TAZEWELL COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,))
)
) Plaintiff,))
)
 v.) NO.
)
)
 CITY OF PEKIN, a municipal)
 corporation,)
)
)
 Defendant.)

COMPLAINT FOR INJUNCTION AND PENALTIES

NOW COMES Plaintiff, the PEOPLE OF THE STATE OF ILLINOIS,
by WILLIAM J. SCOTT, Attorney General of the State of Illinois, and
complaining of Defendant, CITY OF PEKIN, a municipal corporation,
states as follows:

COUNT I

1. This Count is brought pursuant to the provisions of
Section 42 of the Illinois Environmental Protection Act ("Act").
Ill. Rev. Stat., ch. 111-1/2, par. 1042 (1975) that give the
Attorney General statutory power to institute a civil action for
an injunction to restrain violations of the Act.

2. The Pollution Control Board ("Board") is an independent
Board created by the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1001
et seq. (1975), and is empowered to hear complaints charging viola-
tions of the Act, or of the Board's Rules and Regulations, Ill. Rev.
Stat., ch. 111-1/2, par. 1005(d) and 1033 (1975).

3. Section 42(a) of the Act, Ill. Rev. Stat., ch. 111-1/2,
par. 1042(a) (1975) states in part:

"Any person...that violates any determination or
Order of the Board pursuant to this Act, shall
be liable to a civil penalty of not to exceed
\$10,000 for said violation and an additional

civil penalty of not to exceed \$1,000 for each day during which violation continues."

4. Defendant operated a refuse disposal site located in the Southeast 1/4 of Section 9 of Township 24 North, Range 5 West of the Third Principal Meridian in Tazewell County, Illinois, from 1965 until on or about December 1, 1975.

5. The Attorney General filed with the Board on behalf of the Illinois Environmental Protection Agency ("Agency") on April 14, 1975, a Complaint against the CITY OF PEKIN alleging certain violations of the Act and of the Board's Regulations, (Docket No. PCB 75-156).

6. These violations of the Act and of the Board's Regulations are set forth in the Opinion and Order of the Board entered on February 11, 1976. A certified copy of that Opinion and Order is attached to this Complaint as Exhibit "A" and is incorporated by reference.

7. The Opinion and Order of the Board, previously referred to as Exhibit "A", in part ordered Defendant as follows:

1. The City of Pekin was in violation of Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Act on February 11, 1976....
2. The City of Pekin shall cease the said violations and desist any violations in the future.
3. The City shall provide and maintain leachate monitoring sites; and shall report the results of such monitoring to the Agency on a quarterly calendar basis.

8. On February 13, 1976, Notice and a copy of said Opinion and Order of February 11, 1976 were sent to the Defendant herein by certified mail pursuant to Section 33 of the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1033 (1975).

9. On March 12, 1976 Defendant filed a Petition for Administrative Review in the Illinois Appellate Court for the Third District, for a review of the Order entered by the Board. On March 12, 1976 Defendant filed with the Board a Motion to Stay the Decision of the Board Without Bond, Pending Appeal. The Board denied the Motion of Defendant on March 25, 1976. Defendant then filed a similar Motion before the Appellate Court. This motion was granted by the Court on April 27, 1976.

10. On April 6, 1977 the Appellate Court affirmed (City of Pekin vs. The Environmental Protection Agency, 361 N.E. 2nd 889, 147 Ill. App. 3d 187), those portions of the Order which held that a permit violation occurred, the City should cease and desist disposal activities at the site and the City should close the site in conformity with the Board's Rules and Regulations. A copy of the Appellate Court opinion is attached hereto as Exhibit "B". No further appeal from the Appellate Court was taken by either party.

11. Rule 305(c) of the Regulations provides as follows:

Final Cover - a compacted layer of not less than two feet of suitable material shall be placed over the entire surface of each portion of the final lift not later than 60 days following the placement of refuse in the final life, unless a different schedule has been authorized in the Operating Permit.

12. Beginning on or about December 1, 1975 and continuing every day to the date of filing hereof, Defendant has failed to place the required final cover on the site, thereby violating Rule 305(c) of the Regulations and Section 21(b) of the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1021(b) (1975).

13. Defendants' failure to place final cover on the site constitutes a violation of the Order of the Pollution Control Board, and hence a violation of Section 42(a) of the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1042(a) (1975).

14. Plaintiff has no adequate remedy at law in that money damages would be inadequate to provide Plaintiff with sufficient protection from the harm caused by Defendant's deliberate disregard of a valid Board Order.

WHEREFORE, Plaintiff, the PEOPLE OF THE STATE OF ILLINOIS, pray:

1. The Court enter a mandatory injunction against Defendant ordering it to comply with the February 11, 1976 Order of the Board, specifically that portion requiring the placement of closure material on site.

2. The Court tax or assess all costs of this proceeding and any other assessments it deems appropriate in this matter against Defendant.

3. The Court award Plaintiff any other relief it deems appropriate in this matter.

COUNT II

1. This Count is brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, pursuant to the terms and provisions of Section 42 of the Environmental Protection Act ("Act"), Ill. Rev. Stat., ch. 111-1/2, par. 1042 (1975).

2.-8. Plaintiff realleges Paragraphs 2 through 8 inclusive of Count I as Paragraphs 2 through 8 inclusive of Count II.

9. Beginning on or about December 1, 1975, and continuing each and every day until the date of the filing of this Complaint, the Defendant has violated an Order of the Board by its failure to cease and desist violations of Rule 305(c) of the Board's Solid Waste Regulations and Section 21(b) of the Act, thus violating Section 42 of the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1042 (1975).

WHEREFORE, Plaintiff, the PEOPLE OF THE STATE OF ILLINOIS, pray:

1. The Court assess a penalty against Defendant for \$10,000.00 for said violation of Rule 305(c) and an additional penalty of \$1,000.00 for each day said violation was shown to occur.

2. The Court tax or assess all costs of this proceeding and any other assessments it deems appropriate in this matter against Defendant.

3. The Court award Plaintiff any other relief it deems appropriate in this matter.

PEOPLE OF THE STATE OF ILLINOIS

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY:


RUSSELL R. EGGERT
Assistant Attorney General

OF COUNSEL:

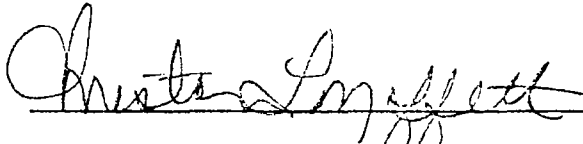
RUSSELL R. EGGERT
Chief, Northern Region
Environmental Control Division

JILL LESLIE DRELL
Assistant Attorney General
Environmental Control Division

188 West Randolph Street
Suite 2315
Chicago, Illinois 60601
312/793-2491

CERTIFICATION

I, CHRISTAN L. MOFFETT, Clerk of the Illinois Pollution Control Board, do hereby certify that the attached is a true and correct copy of the Opinion and Order adopted by the Board on February 11, 1976 in the matter of PCB 76-156, Environmental Protection Agency v. City of Pekin, a municipal corporation.



CHRISTAN L. MOFFETT
Illinois Pollution Control Board

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 7th DAY
OF March, 1978.

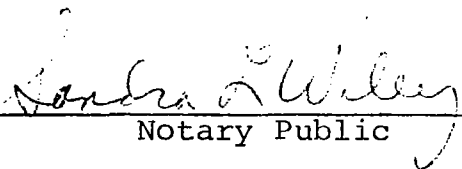

Notary Public

EXHIBIT "A"